

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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KAT HOUSE PRODUCTIONS, LLC d/b/a SURF
CHICK, KATHLEEN MERRICK, PATRICIA J.
WAGNER and AURORA CONTRERAS,

[ECF]

07 CIV 9700(BSJ)(MHD)

Plaintiffs,

-against-

PAUL, HASTINGS, JANOFSKY & WALKER, LLP,
REBECCA KELDER MYERS, KATHERINE CHANG
and CATHERINE M. CLAYTON,

**DECLARATION OF
EVE M. CODDON**

Defendants.

-x

I, EVE M. CODDON, hereby declare pursuant to 28 U.S.C. 1746 as follows:

1. I am a partner in Defendant Paul, Hastings, Janofsky & Walker, LLP (“Paul Hastings”). I submit this declaration in support of Defendants Paul Hastings, Rebecca Kelder Myers, and Catherine M. Clayton’s motion pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure to dismiss Plaintiffs’ action against them on the ground that there is a lack of subject matter jurisdiction.

2. Attached hereto as Exhibit A is a copy of the original Verified Complaint in this action.

3. Plaintiffs commenced this action alleging that there was complete diversity of citizenship. Ex. A ¶11. Plaintiffs alleged that they were all California citizens and retained Paul Hastings’ New York office to perform certain legal work for them. Ex. A ¶¶2-10. Paul Hastings, however, also has five offices in California and a large number of

partners who are citizens of that State, including myself. The firm's Los Angeles office alone has over fifty partners who are also citizens of California.

4. Before Defendants' time to respond to the original complaint expired, Plaintiffs served an amended complaint alleging jurisdiction solely under 28 U.S.C. §1331 and abandoned their claim that there was diversity jurisdiction. See Amended Verified Complaint at ¶11, a copy of which is attached hereto as Exhibit B.

5. Defendants Rebecca Myers, Katherine Chang, and Catherine Clayton are each current or former associates of Paul Hastings. Ms. Clayton and Ms. Chang are no longer employed by Paul Hastings.¹

6. There is another action between Paul Hastings and Plaintiffs pending in California. On November 7, 2007, Paul Hastings commenced an action in the Superior Court of California, County of Los Angeles, against Kat House Productions, LLC, Kathleen Merrick, Patricia J. Wagner, and Aurora Contrares (collectively "Kat House"), the Plaintiffs in the instant action for breach of contract, quantum meruit, account stated, and declaratory relief under state law.

7. On December 6, 2007, Kat House removed the California state court action to the United States District Court for the Central District of California, alleging subject matter jurisdiction under 28 U.S.C. §§1338 and 1367(a). The Honorable George H. King, United States District Court Judge, sua sponte issued an Order, dated December 20,

¹Defendant Chang has not been served with process in this action.

2007, directing Kat House to show cause within twelve days why the action should not be remanded to the California State Court because of the lack of subject matter jurisdiction. Attached hereto as Exhibit C is a copy of the December 20, 2007 Order.

8. On January 7, 2008, Kat House filed its response to the Court's order to show cause. A copy of Kat House's response to court's order to show cause is attached as Exhibit D.

9. Judge King has not yet ruled on the order to show cause.

10. For the reasons set forth in Defendants' Memorandum of Law submitted herewith, I respectfully request that Defendants' motion to dismiss be granted.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on the 16th day of January, 2008.



Eve M. Coddon

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
ss.:
COUNTY OF NEW YORK)

The undersigned, being duly sworn, deposes and says:

Deponent is not a party to the action, is over 18 years of age and resides at 226 East 74th Street, New York, NY.

That on January 17, 2008 deponent served the annexed

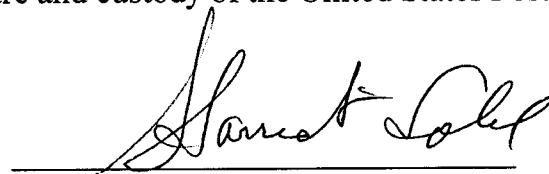
**NOTICE OF MOTION AND DECLARATION OF
EVE M. CODDON IN SUPPORT OF CERTAIN
DEFENDANTS' MOTION TO DISMISS THE ACTION**

BY MAIL

on

Brian T. Egan, Esq., Egan & Golden, LLP, 475 East Main Street, Suite 114, Patchogue, NY 11772, Attorneys for Plaintiffs

by depositing a true copy of same enclosed in a postpaid properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York.



Harriet Lobl

Sworn to before me this
17th day of January, 2008



Notary Public

STEVEN MARK CORDERO
Notary Public, State of New York
No. 02CO6059031
Qualified in Queens County
Commission Expires May 21, 2011